

provisions in this part, it should be understood that inexactness or carelessness may result in injury or damage. It should also be understood by the owners that emergency measures prescribed by the inspector to safeguard against plant pest dissemination may have adverse effects on certain products and articles and that they will take the calculated risk of such adverse effects of authorized measures.

§§ 352.16–352.28 [Reserved]

§ 352.29 Administrative instructions: Avocados from Mexico.

Avocados from Mexico may be moved through the United States to destinations outside the United States only in accordance with this section.

(a) *Permits.* Before moving the avocados through the United States, the owner must obtain a formal permit in accordance with § 352.6 of this part.

(b) *Ports.* The avocados may enter the United States only at the following ports: Galveston or Houston, Texas; the border ports of Nogales, Arizona, or Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, Texas; or at other ports within that area of the United States specified in paragraph (f) of this section.

(c) *Notice of arrival.* At the port of arrival, the owner must provide notification of the arrival of the avocados in accordance with § 352.7 of this part.

(d) *Inspection.* The owner must make the avocados available for examination by an inspector. The avocados may not be moved from the port of arrival until released by an inspector.

(e) *Shipping requirements.* The avocados must be moved through the United States either by air or in a refrigerated truck or refrigerated rail car or in refrigerated containers on a truck or rail car. If the avocados are moved in refrigerated containers on a truck or rail car, an inspector must seal the containers with a serially numbered seal at the port of arrival. If the avocados are removed in a refrigerated truck or refrigerated rail car, an inspector must seal the truck or rail car with a serially numbered seal at the port of arrival. If the avocados are transferred to another vehicle or container in the United States, an inspector must be

present to supervise the transfer and must apply a new serially numbered seal. The avocados must be moved through the United States under Customs bond.

(f) *Shipping areas.* Avocados moved by truck or rail car may transit only that area of the United States bounded on the west and south by a line extending from El Paso, Texas, to Salt Lake City, Utah, to Portland, Oregon, and due west from Portland; and on the east and south by a line extending from Brownsville, Texas, to Galveston, Texas, to Kinder, Louisiana, to Memphis, Tennessee, to Louisville, Kentucky, and due east from Louisville. All cities on these boundary lines are included in this area. If the avocados are moved by air, the aircraft may not land outside this area. Avocados that enter the United States at Nogales, Arizona, must be moved to El Paso, Texas, by the route specified on the formal permit.

[52 FR 27671, July 23, 1987, as amended at 54 FR 43167, Oct. 23, 1989]

§ 352.30 Untreated oranges, tangerines, and grapefruit from Mexico.

The following provisions shall apply to the movement into or through the United States under this part of untreated oranges, tangerines, and grapefruit from Mexico in transit to foreign countries via United States ports on the Mexican border.

(a) *Untreated fruit; general—(1) Permit and notice of arrival required.* The owner shall, in advance of shipment of untreated oranges, tangerines, or grapefruit from Mexico via United States ports to any foreign country, procure a formal permit as provided in § 352.6, or application for permit may be submitted to the inspector at the port in the United States through which the shipment will move. Notice of arrival of such fruit shall be submitted as required by § 352.7.

(2) *Origin: period of entry.* Such fruit may enter from any State in Mexico throughout the year, in accordance with requirements of this section and other applicable provisions in this part.

(3) *Cleaning refrigerated containers prior to return to the United States from Canada.* Refrigerated containers that

have been used to transport untreated oranges, tangerines, or grapefruit from Mexico through the United States to Canada shall be carefully swept and freed from all fruit, as well as boxes and rubbish, by the carrier involved prior to reentry into the United States.

(4) *Inspection; safeguards.* (i) Each shipment under paragraph (a) of this section shall be subject to such inspections and safeguards as are required by this section and such others as may be prescribed by the inspector pursuant to § 352.10.

(ii) Untreated oranges, tangerines, and grapefruit arriving from Mexico at authorized ports in the United States for movement to a foreign country shall be loaded into refrigerated containers and preinspected by an inspector for freedom of citrus leaves before entry into the United States or be accompanied by an acceptable certificate from an inspector as to such freedom. Refrigerated containers loaded with untreated oranges, tangerines, and grapefruit that are not free of such leaves will be denied entry into the United States.

(iii) All refrigerated containers used to transport untreated fruit from Mexico through the United States to a foreign country under this paragraph (a) shall be subject to such treatment at the port of first arrival and elsewhere as may be required by the inspector, pursuant to this part, in order to prevent plant pest dissemination.

(b) *Additional conditions for overland movement of certain untreated fruit.* Untreated oranges, tangerines, and grapefruit from Mexico may move overland through the United States to a foreign country only in accordance with the following additional conditions:

(1) *Ports of entry.* Such fruit may enter only at Nogales, AZ, or Eagle Pass, El Paso, or Laredo, TX.

(2) *General transit conditions.* The following conditions apply to all shipments of untreated oranges, tangerines, and grapefruit from Mexico transiting the United States for movement to a foreign country:

(i) The fruit must be packed in insect-proof boxes or crates that prevent

the escape or entry of adult, larval, or pupal fruit flies.⁴

(ii) Boxes or cartons of fruit must be enclosed in sealed, refrigerated containers of the type commonly used by the maritime or commercial trucking industry. An official seal must be applied to the container at the port of entry. The seal must not be removed except by an inspector, or after the shipment has left the United States.

(iii) The temperature in the refrigerated containers in which the fruit is transported must be maintained at 60 °F or lower.

(iv) If the seal on the containers in which such fruit is shipped is found to have been broken, for any reason, before the container leaves the United States, or if the cooling system in the containers fails at any point during transit, an inspector at the port of entry must be contacted immediately.

(v) A transportation and exportation permit must be issued by an inspector for each shipment. This permit can be obtained from APHIS headquarters.⁵

(vi) If untreated fruit is transloaded to another container while in the United States, the transloading must be supervised by an inspector and a replacement official seal must be applied to the container to which the fruit is moved.

(vii) Shipments of such fruit must move by direct route, in Customs bond and under official seal, without diversion or change of entry en route, from the port of entry to the port of exit or to an approved port in the United States for export to another foreign country.

(viii) Shipments of such fruit may not traverse the counties of Cameron, Hidalgo, Starr, or Willacy, TX. Shipments of such fruit may only traverse

⁴If there is a question as to whether packaging is adequate, send a request for approval of the packaging, together with a sample of the packaging, to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Center for Plant Health Science and Technology, 1730 Varsity Drive, Suite 400, Raleigh, NC 27606.

⁵To obtain this permit, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Unit, 4700 River Road Unit 133, Riverdale, MD 20737.

areas listed under each type of carrier listed below.

(3) *Truck movement.* Trucks may haul refrigerated containers of such fruit from Mexico to shipside, or to approved refrigerated storage pending lading aboard ship, in Corpus Christi, Galveston, or Houston, TX, or alongside railway carriers or aircraft at the ports named in paragraph (b)(2) of this section for movement to a foreign country. Shipments of such fruit via truck may traverse only the territory within the United States bounded on the west by a line starting at Laredo, TX, on to El Paso, TX, to Salt Lake City, UT, and then to Portland, OR, and on the east by a line drawn from Laredo, TX to Hebbronville, TX, to Corpus Christi, TX, to Galveston, TX, to Kinder, LA, to Memphis, TN, and then to Louisville, KY, and routes directly northward.

(4) *Rail movement.* Shipments must move by direct route from the port of entry to the port of exit or to an approved North Atlantic port in the United States for export to another foreign country, as follows: The fruit may be entered at Nogales, AZ, only for direct rail routing to El Paso, TX, after which it shall traverse only the territory bounded on the west by a line drawn from Laredo, TX, to El Paso, TX, to Salt Lake City, UT, and then to Portland, OR, and on the east by a line drawn from Laredo, TX, to Hebbronville, TX, to Corpus Christi, TX, to Galveston, TX, to Kinder, LA, to Memphis, TN, and then to Louisville, KY, and routes directly northward. Such fruit may also enter the United States from Mexico at any port listed in paragraph (b)(1) of this section, for direct eastward rail movement, without diversion en route, for reentry into Mexico.

(5) *Air cargo movement.* Shipments of such fruit may move by direct route as air cargo, without change of entry while in the United States en route from the port of entry, to Canada. If an emergency occurs en route to the port of export that will require transshipment to another carrier, an inspector at the port of entry must be contacted immediately.

(c) *Additional conditions for movement of certain untreated fruit by water route.*

Untreated oranges, tangerines, and grapefruit from Mexico may move from Mexico to a foreign country by water route through the United States under this section only in accordance with the following additional conditions:

(1) *Ports of entry.* Such oranges, tangerines, and grapefruit may enter only at New York, Boston, or such other North Atlantic ports in the United States as may be named in permits, for exportation, or at Galveston, Texas, for exportation by water route.

(2) *Routing through North Atlantic ports.* Such fruit entering via North Atlantic ports in the United States shall move by direct water route to New York or Boston, or to such other North Atlantic ports as may be named in the permit only for immediate direct export by water route to any foreign country, or for immediate transportation and exportation in Customs bond by direct rail route to Canada.

(d) *Restriction on diversion or change of Customs entry.* Diversion or change of Customs entry shall not be permitted with movements authorized under paragraph (b) (4) or (5) or paragraph (c) of this section and the inspector at the original port of Customs entry shall appropriately endorse the Customs documents to show that fact: *Provided*, That the inspector at such port of entry may, when consistent with the purposes of this part, approve diversion or change of Customs entry to permit movement to a different foreign country or entry into the United States subject to all other applicable requirements under this part or part 319 of this chapter. If diversion or change of Customs entry is desired at a Customs port in the United States where there is no inspector, the owner may apply to the Plant Protection and Quarantine Programs for information as to applicable conditions. If diversion or change of entry is approved at such a port, confirmation will be given by the Plant Protection and Quarantine Programs to appropriate Customs officers and Plant Protection and Quarantine Programs inspectors.

(e) *Untreated fruit from certain municipalities in Mexico.* Oranges, tangerines, and grapefruit in transit to foreign countries may be imported from certain municipalities in Mexico listed in

§319.56–2(h) of this chapter in accordance with the applicable conditions in §§319.56 through 319.56–8 of this chapter.

(f) *Treated fruit.* Oranges, tangerines, and grapefruit from Mexico which have been treated in Mexico in accordance with §319.56–2f of this chapter may be imported through the United States ports for exportation in accordance with §§319.56 and 319.56–1 through 319.56–8 of this chapter.

(g) *Costs.* Costs shall be borne by the owner of the fruit as provided in §352.14. This includes all costs for preinspection and conveying of loaded trucks and supervision of transloading from trucks to approved carriers or storage in United States ports when augmented inspection service has to be provided for such preinspection, conveying, and supervision.

(Approved by the Office of Management and Budget under control number 0579–0303)

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PART 353—EXPORT CERTIFICATION

Sec.

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353.9 Standards for accreditation of non-government facilities to perform laboratory seed health testing and seed crop phytosanitary inspection.

AUTHORITY: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 61 FR 15368, Apr. 8, 1996, unless otherwise noted.

§ 353.1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Agent. An individual who meets the eligibility requirements set forth in §353.6, and who is designated by the

Animal and Plant Health Inspection Service to conduct phytosanitary field inspections of seed crops to serve as a basis for the issuance of phytosanitary certificates.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Certificate of heat treatment. A certificate (PPQ Form 553) issued by an inspector endorsing the statement of an exporter that the coniferous packing materials associated with a shipment for export have been heat treated in the United States or in Canada by being subjected to a minimum core temperature of 56 °C for 30 minutes.

Consignment. One shipment of plants or plant products, from one exporter, to one consignee, in one country, on one means of conveyance; or any mail shipment to one consignee.

Export certificate for processed plant products. A certificate (PPQ Form 578) issued by an inspector, describing the plant health condition of processed or manufactured plant products based on inspection of submitted samples and/or by virtue of the processing received.

Family. An inspector or agent and his or her spouse, their parents, children, and first cousins.

Industry-issued certificate. A certificate issued by a representative of the concerned agricultural or forestry industry under the terms of a written agreement with the Animal and Plant Health Inspection Service, giving assurance that a plant product has been handled, processed, or inspected in a manner required by a foreign government.

Inspector. An employee of the Animal and Plant Health Inspection Service, or a State or county plant regulatory official designated by the Secretary of Agriculture to inspect and certify to shippers and other interested parties, as to the phytosanitary condition of plant products inspected under the Act.

Non-government facility. A laboratory, research facility, inspection service, or other entity that is maintained, at least in part, for the purpose of providing laboratory testing or phytosanitary inspection services and that is not operated by the Federal